

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MICHAEL GERARD CEPEDA,

Case No. 2:20-cv-00359-RFB-NJK

Plaintiff

ORDER

v.

MUNOZ et al.,

Defendants

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former county inmate. On October 14, 2020, this Court issued an order directing Plaintiff to file his updated address and a non-prisoner application to proceed *in forma pauperis* with this Court by November 13, 2020. (ECF No. 7). The deadline has now expired, and Plaintiff has not filed his updated address, filed a non-prisoner application to proceed *in forma pauperis*, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors:

1 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
2 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
4 See Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at  
5 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

6 Here, the Court finds that the first two factors, the public's interest in expeditiously  
7 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
8 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
9 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
10 in filing a pleading ordered by the court or prosecuting an action. See Anderson v. Air  
11 West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
12 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
13 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
14 the court's order will result in dismissal satisfies the "consideration of alternatives"  
15 requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-33; Henderson, 779  
16 F.2d at 1424. The Court's order requiring Plaintiff to file his updated address and file a  
17 non-prisoner application to proceed *in forma pauperis* with the Court on or before  
18 November 13, 2020, expressly stated: "It is further ordered that, if Plaintiff fails to timely  
19 update his address and submit an application to proceed *in forma pauperis* by a non-  
20 prisoner, the Court will dismiss this case without prejudice." (ECF No. 7 at 3). Thus,  
21 Plaintiff had adequate warning that dismissal would result from his noncompliance with  
22 the Court's order to file his updated address and a non-prisoner application to proceed *in*  
23 *forma pauperis* on or before November 13, 2020.

24 It is therefore ordered that this action is dismissed without prejudice based on  
25 Plaintiff's failure to file an updated address and a non-prisoner application to proceed *in*  
26 *forma pauperis* in compliance with this Court's October 14, 2020, order.

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1 It is further ordered that the Clerk of Court will close the case and enter judgment  
2 accordingly.

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4 DATED THIS 16th day of November 2020.

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7 RICHARD F. BOULWARE, II  
8 UNITED STATES DISTRICT JUDGE  
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